

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KENNETH LOVELACE, et al.,

Defendants.

Case No. CV 15-5136-GW(JCx)

ORDER FOR ENTRY OF JUDGMENT,  
ORDER OF FORECLOSURE, AND  
SALE OF THE SUBJECT PROPERTY

Based on the stipulation between plaintiff United States of America (“United States”) and defendants Kenneth Lovelace, Evelyn L. Lovelace, and K&E Lovelace 2000-I Limited Partnership (“K&E Lovelace LP”)(collectively “Defendants”), and for good cause appearing herein:

**IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that:

1. On September 4, 2015, the United States filed its First Amended Complaint (1) to Reduce Joint Federal Tax Assessments to Judgment; (2) to Determine that Real Property is Titled to K&E Lovelace 2000-I Limited Partnership as Nominee for the Benefit of Kenneth and Evelyn Lovelace; and (3) to Foreclose Federal Tax Liens on Real Property (“Amended Complaint”). (Dkt. No. 29).

2. On October 2, 2015, Defendants filed their Answer to Amended Complaint.

(Dkt. No. 45).

**FIRST CAUSE OF ACTION: REDUCE FEDERAL TAX ASSESSMENTS TO  
JUDGMENT AGAINST DEFENDANTS KENNETH LOVELACE AND EVELYN  
LOVELACE**

**(Stipulated between the United States, Kenneth Lovelace, and Evelyn Lovelace)**

3. The first cause of action in the Amended Complaint is to reduce to judgment joint federal income tax assessments against Kenneth Lovelace and Evelyn Lovelace.

4. The balances due for Kenneth Lovelace's and Evelyn Lovelace's joint federal income tax (Form 1040) liabilities for the periods at issue in plaintiff's first cause of action, calculated to July 8, 2015, are as follows:

<b>Tax Year</b>	<b>Account Balance</b>
1999	\$ 352,432.71
2000	\$ 530,169.77
2001	\$ 48,248.38
2002	\$ 1,942.20
2011	\$ 2,925.79
<b>TOTAL</b>	\$ 935,718.85

5. Additional amounts will continue to accrue after July 8, 2015, as allowed by law.

6. The balances due to the United States in Paragraph 3 above, plus accrued penalties and interest, are hereby reduced to judgment as against defendants Kenneth Lovelace and Evelyn Lovelace, resolving the First Cause of Action in favor of the United States.

**SECOND CAUSE OF ACTION: DETERMINE THAT THE SUBJECT  
PROPERTY IS TITLED TO K&E LOVELACE LP AS A NOMINEE FOR  
THE BENEFIT OF THE DEFENDANTS**

**(Stipulated between the United States and Defendants)**



1 stipulation is to provide defendants time to sell the subject property to achieve the highest  
2 sale price and avoid forced sale of the subject property and/or obtain refinancing to be  
3 used to satisfy the outstanding Federal income tax liabilities to allow defendants to keep  
4 their house.

5 14. From the date of this stipulation and continuing until the subject property is  
6 yielded to a purchaser, or until Defendants full pay their federal income tax debts listed in  
7 Paragraph 3 above, Defendants:

- 8 a. Shall take all reasonable steps necessary to preserve the subject property  
9 (including all buildings, improvements, fixtures and appurtenances on the  
10 property) in its current condition including, without limitation, maintaining a  
11 fire and casualty insurance policy on the Subject Property;
- 12 b. Any and all existing property insurance policies held by Defendants relating  
13 to the subject property shall be modified to designate the United States of  
14 America as a beneficiary, to be paid after the mortgage lender's balance is  
15 paid in full. Proof that the United States has been named as a beneficiary  
16 under any such property insurance agreement must be provided to the  
17 undersigned counsel for the United States within 21 days of entry of this  
18 order.
- 19 c. Shall timely pay all real property taxes, mortgage payments (if applicable),  
20 homeowners association dues (if applicable), and homeowner insurance  
21 premiums;
- 22 d. Shall neither commit waste against the subject property nor cause nor permit  
23 anyone else to do so;
- 24 e. Shall neither do anything that tends to reduce the value or marketability of  
25 the subject property nor cause nor permit anyone else to do so; and
- 26 f. Shall not record any instruments, publish any notice, or take any other action  
27 (such as running newspaper advertisements, posting signs, or making  
28 internet postings) that may directly or indirectly tend to adversely affect the  
value of the subject property or that may tend to deter or discourage

1 potential bidders from participating in the public auction, nor cause nor  
2 permit anyone else to do so.

3 15. The United States shall stay its right to foreclose from the date of this  
4 judgment until **June 30, 2017**. If Defendants breach the conditions in Paragraph 13  
5 above, the United States will not be required to stay its right to conduct a foreclosure.

6 **PRIVATE SALE OF SUBJECT REAL PROPERTY**

7 16. The subject property may be sold by a private sale conducted by defendants  
8 prior to June 30, 2017, for the purpose of applying the proceeds from the private sale to  
9 the satisfaction of their liabilities to and HSBC Bank USA, N.A. as successor in interest  
10 to Crossland Federal savings Bank ("HSBC"), the California Franchise Tax Board  
11 ("FTB") and the United States in the order of priority described in the orders entered by  
12 this Court on October 16, 2015, as Docket Number 55, and December 1, 2015, as Docket  
13 Number 62.

14 17. The terms and conditions of private sale shall be as follows:

- 15 a. The subject property will be listed by defendants through a licensed broker  
16 on MLS (Multiple Lister System). A copy of the listing agreement and MLS  
17 listing will be furnished to the United States through the Assistant United  
18 States Attorney (AUSA) acting as its counsel in this case. The documents  
19 shall be furnished to the following address:

20 United States Attorney's Office  
21 Attn: Charles Parker, AUSA  
22 300 N. Los Angeles Street, Suite 7211  
Los Angeles, CA 90012

- 23 b. Defendants shall have the right to conditionally accept an offer subject to  
24 approval by the United States of America and must communicate and  
25 transmit such offer and conditional acceptance to the AUSA within five (5)  
26 days at the address specified in 16(a) above. Within ten (10) business days  
27 of receiving notice the conditional acceptance, written rejection or approval  
28 by the United States of America of an offer must be provided to defendants

1 or their counsel, otherwise, the United States will have waived any  
 2 objections to the conditionally accepted offer.

- 3 c. The commission due to the buying and selling agents shall not exceed 6  
 4 percent of the total sale price. Other commercially reasonable sales costs are  
 5 to be paid out of the sale proceeds. If a party objects the reasonableness of  
 6 any sales cost, the dispute will be resolved by the court upon motion by the  
 7 objecting party.
- 8 d. The minimum bid shall be the sum of the (1) balances due on the federal tax  
 9 liabilities at issue in this case, (2) balance due on the Deed of Trust to HSBC  
 10 and (3) any other balances which are entitled to priority of payment from the  
 11 proceeds of the sale of the subject real property or 75 percent of the current  
 12 fair market value as determined by a Property Appraisal/Liquidation  
 13 Specialist (PALS) for the Internal Revenue Service (“IRS”) based on its  
 14 appraisal of the subject real property, whichever sum is lesser.
- 15 e. The purchaser shall be required to deposit into escrow a minimum of  
 16 \$10,000 within three (3) days upon the offer being accepted. Should any  
 17 purchaser open escrow by virtue of this private sale but later forfeit said  
 18 deposit for failure to comply with the terms of the sale, such deposit will be  
 19 determined to be a penalty, and the deposit shall be paid over to the United  
 20 States as a credit on the judgment of the United States for joint Federal tax  
 21 assessments against defendants Kenneth Lovelace and Evelyn Lovelace for  
 22 1999, 2000, 2001, 2002, and 2011 and the Deed of Trust assigned to HSBC,  
 23 with no amount being retained by defendants.

24 18. If Defendants are unable to sell the subject property by **June 30, 2017**,  
 25 and/or unable to satisfy their outstanding tax liabilities by **June 30, 2017**, the IRS shall be  
 26 permitted to sell the subject property. This date may be extended in the sole discretion of  
 27 plaintiff United States.

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1 **FORECLOSURE SALE**

2 19. If Defendants are unable to sell the subject property or satisfy the Federal tax  
 3 liens through a refinance or otherwise by **June 30, 2017**, the IRS shall be permitted to  
 4 sell the property by the Area Director of the IRS, Los Angeles, California Area (Area  
 5 Director), or his delegate, in accordance with the provisions of 28 U.S.C. §§ 2001 and  
 6 2002. The sale shall also be subject to the terms and conditions of the “Order” entered by  
 7 the Court on October 16, 2015, as Docket Number 55, which bound HSBC and Chase to  
 8 any judgment entered in this case, which is incorporated herein by reference.

9 20. The subject property shall be sold at a public sale to be held at the Stanley  
 10 Mosk Los Angeles County Courthouse 111 North Hill Street, Los Angeles, California as  
 11 follows:

- 12 a. The PALS shall announce the date and time for sale.
- 13 b. Notice of the sale shall be published once a week for at least four (4)  
 14 consecutive weeks prior to the sale in at least one newspaper regularly  
 15 issued and of general circulation in Los Angeles County, California. Said  
 16 notice shall describe the subject property by both its street address and its  
 17 legal description, and shall contain the terms and conditions of sale as set out  
 18 herein.
- 19 c. The terms and conditions of sale shall be as follows:
- 20 i. A minimum bid determined by reference to the current fair market  
 21 value shall be required. The minimum bid shall be 75 percent of the  
 22 current fair market value as determined by an appraisal of the subject  
 23 property by the PALS. The terms of sale as to all persons or parties  
 24 bidding shall be by money order or by certified or cashier’s check
- 25 ii. The PALS shall set the minimum bid. If the minimum bid is not met  
 26 or exceeded, the PALS may, without further permission of this Court,  
 27  
 28

1 and under the terms and conditions in this order of sale, hold a new  
2 public sale, if necessary, and reduce the minimum bid.

- 3 iii. At the time of the sale, the successful bidder shall be required to  
4 deposit with the PALS, by cash, money order, or by certified or  
5 cashier's check payable to the United States District Court for the  
6 Central District of California, a deposit equal to twenty percent (20%)  
7 of the bidder's total bid immediately upon the property being struck  
8 off and awarded to such bidder as the highest and best bidder.
- 9 iv. The successful bidder shall remit the remaining eighty percent (80%)  
10 of said purchase price to be paid on or before 5:00 p.m., within three  
11 (3) business days of the date of sale, by cash, money order, or by  
12 certified or cashier's check payable to the United States District Court  
13 for the Central District of California.
- 14 v. The cash, money order, or certified or cashier's check payable to the  
15 United States District Court for the Central District of California shall  
16 be given to the PALS by the successful bidder, who will deposit the  
17 funds with the Clerk of this Court.
- 18 vi. Should the successful bidder fail to comply with the terms of the sale,  
19 such bidder shall be liable to the United States for twenty percent (20%)  
20 of the value of the property as a penalty. The Clerk shall distribute the 20  
21 percent penalty as directed by the PALS by check made to the "United  
22 States Treasury" to be applied toward payment of said penalty. Payment  
23 of said penalty shall not be a credit on the judgment of the United States.  
24 The subject property shall again be offered for sale under the terms and  
25 conditions of this order for sale or, in the alternative, sold to the second  
26 highest bidder. Any amount paid over and delivered to the United States  
27 under this provision shall not be a credit on the judgment of the United  
28 States against the liabilities at issue herein.



1           21. The Clerk of the District Court is directed to accept the proceeds of the sale  
2 and deposit it into the Court's register for distribution pursuant to a further order.

3           22. Upon selling the subject property, the United States of America shall prepare  
4 and file with this Court an Application by the United States of America Confirming Sale  
5 and Directing Distribution of Sale Proceeds, which will set forth an accounting and report  
6 of sale for the subject property. The sale of the subject property shall be subject to  
7 confirmation by this Court. The Application by the United States of America  
8 Confirming Sale and Directing Distribution of Sale Proceeds shall be filed within thirty  
9 (30) days from the date of such sale. If no objections have been filed in writing in this  
10 cause with the Clerk of the Court within fifteen (15) days of the date of sale, the sale shall  
11 be confirmed by the Court without necessity of motion. On confirmation of the sale, the  
12 Court will direct the Internal Revenue Service to execute and deliver its deed conveying  
13 the subject property to the purchaser. On confirmation of the sale, all interests in, liens  
14 against, or claims to the subject property that are held or asserted by all parties to this  
15 action are discharged and extinguished.

16           23. Possession of the subject property which is sold shall be yielded to the  
17 purchaser upon the production of the Certificate and Sale of Deed; and if there is refusal  
18 to so yield, a Writ of Assistance may, without further notice, be issued by the Clerk of  
19 this Court to compel delivery of the subject property to the purchaser.

20 **DISTRIBUTION OF PROCEEDS FOR SALE OR REFINANCE**

21           24. The proceeds of the sale of the subject property, whether by private sale or  
22 judicial foreclosure sale by the IRS, should be applied to the following items, in the order  
23 specified:

- 24           a. If the property is sold by private sale or judicial foreclosure sale by the IRS,  
25           the expenses of the sale of the subject property shall be paid first to the party  
26           who incurred the expenses of the sale;
- 27           b. Second, to the Los Angeles County Assessor, or other local taxing authority,  
28           for any real property taxes and other local assessments due and owing;

- c. Third, to HSBC for the outstanding balance of the Deed of Trust assigned to HSBC and currently being serviced by Chase, consistent with the Court's Order entered October 16, 2015, at Docket Number 55;
- d. Fourth, the remaining proceeds shall be distributed consistent with the Court's Order entered December 1, 2015, at Docket Number 62, regarding the lien priorities of the California FTB and the United States, as follows:

<b>Party</b>	<b>Assessment Date</b>	<b>Tax Year</b>	<b>Balance as of January 1, 2016</b>
FTB	November 15, 2004	2002	\$312,302.48
FTB	November 18, 2004	2001	\$99,265.85
United States	July 8, 2005	1999	\$357,404.53
United States	July 25, 2005	2001	\$48,955.40
United States	July 25, 2005	2002	\$1,970.66
United States	August 18, 2005	2000	\$537,850.42
FTB	August 14, 2006	2002	\$577.52
FTB	August 15, 2006	2001	\$8,661.82
FTB	August 20, 2006	1999	\$164,927.71
United States	May 21, 2012	2011	\$2,963.12

- e. Any further remaining sale proceeds shall be held in the Court's registry pending further order from this Court to distribute this money to Defendants or any other interested party pursuant to an Application made by Defendants

1 or the interest party to the Court; and

2 f. If the subject property is sold by the IRS, after the Court confirms the sale,  
3 and by Order on the application made by the United States as to the specific  
4 amounts at issue, the sale proceeds deposited with the Clerk of this Court  
5 should be paid in the order as delineated in Paragraphs 23(a), (b), (c), (d) and  
6 (e) above.

7 25. The Court hereby retains jurisdiction of this action for the purpose of  
8 making proper distributions of the proceeds of the sale, and resolving any dispute, in any,  
9 pursuant to the Application by the United States Confirming Sale and Directing  
10 Distribution of Sale Proceeds, and Order of this Court upon said Application.

11 **ATTORNEY'S FEES**

12 26. The United States agrees to bear its own costs and attorney's fees against  
13 Defendants and Defendants agree to bear their own costs and attorney's fees as against  
14 the United States.

15 27. All causes of action contained in the Amended Complaint are hereby  
16 resolved and there are no remaining issues for trial.

17 **IT IS SO ORDERED**

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19 Dated: December 22, 2015



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20 GEORGE H. WU  
21 United States District Judge

22 Respectfully presented,

23 EILEEN M. DECKER  
24 United States Attorney  
25 SANDRA R. BROWN  
26 Assistant United States Attorney  
27 Chief, Tax Division

28  
26 /s/  
27 \_\_\_\_\_  
28 CHARLES PARKER  
Assistant United States Attorney  
Attorneys for the United States of America